



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,068	10/07/2003	Andrew S. Hildebrant	10030549-1	8619
63448	7590			
Gregory W. Osterloth Holland & Hart, LLP P.O. Box 8749 Denver, CO 80201				
EXAMINER				
LEIVA, FRANK M				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
06/08/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/681,068	<b>Applicant(s)</b> HILDEBRANT ET AL.
<b>Examiner</b> FRANK M. LEIVA	<b>Art Unit</b> 3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714

Continuation of 11, does NOT place the application in condition for allowance because: The arguments presented by the applicant are not persuasive for the following reasons:

Argument 1; "In response to the above argument, the Examiner asserted that the phrase "required memory" is equal to the phrase "minimum number of flip-flops". See, 317 5MC31C3 Final Office Action, p. 3. Applicants respectfully disagree and assert that the Examiner is reading the phrase "required memory" out of context. To anticipate claim 1, Agrawal needs to disclose more than just the existence of a "required memory", and instead needs to disclose "determining a required memory needed to execute the plurality of test vectors", Agrawal does not disclose this." The examiner points to the definition of "required" as "being necessary to complete the function" such is the minimum number of flip-flops" that is "memory units" necessary (required) to execute the tests vectors. Nothing more has been read into the term "required memory". Furthermore, applicants own admission that a flip-flop is a memory unit in which the memory is measured, thus determining the minimum number of flip-flops to run the test vector (column 4 line 40-43).

Argument 2; "Applicants note that the "number of flip-flops" referred to by Agrawal in col. 4:4040 is a number of flip-flops in an unknown state, which number of flip-flops need to be initialized and tested. The number of flip-flops disclosed by Agrawal is not a number of flip-flops that is "required to execute [a] plurality of test vectors", but is simply a number of flip-flops that exists to be tested. In the context of Agrawal, it makes no sense to read a test file having a plurality of test vectors and then determine "a required memory needed to execute the plurality of test vectors", because the number of flip-flops being tested is fixed irrespective of the test vectors. If anything, Agrawal needs to determine a required number of vectors for initializing or testing a known number of flip-flops." The examiner points to column 4 lines 50-53 where the cost function corresponds to an unknown number of flip-flops, those in an unknown state, and by trial vectors minimize the number of flip-flops (column 4 lines 57-60).

After considering the after final arguments the examiner deems the arguments not persuasive and the rejections still proper, further amendments are necessary for the claims to overcome the rejections. The request does not place the application in condition of allowance.